

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.5.17 NMAC-CORRECTIVE ACTION FUND REGULATIONS**

No. PST 03-01(R)

NEW MEXICO ENVIRONMENT DEPARTMENT NOTICE OF PUBLIC HEARING

The New Mexico Environment Department (Department) will hold a public hearing on Wednesday, September 17, 2003, beginning at 9:00 a.m. in Room 317 of the New Mexico State Capitol Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

The public hearing will be held to consider the Department's proposed amendments to Part 17 of the Petroleum Storage Tank Regulations, 20.5.17 NMAC, Corrective Action Fund Administration. Any interested persons or parties are encouraged to participate or attend.

The Ground Water Protection Act (GWPA) charges the Environment Department (the Department) with the adoption of regulations on a number of topics pertaining to the administration of the Corrective Action Fund, and these regulations are contained in Part 17. The Department's Petroleum Storage Tank Bureau proposes to amend Part 17 at this time to conform its provisions to the amendments to Parts 4 through 16 that have been approved by the Environmental Improvement Board (the Board) and that take effect August 15, 2003.

The regulations just adopted by the Board provide in detail for the regulation of above ground tanks (ASTs) as well as underground tanks (USTs), as required by legislative amendments to the Hazardous Waste Act and GWPA in 2001. Parts 4 through 16 as amended include technical tank standards and corrective action requirements for ASTs, and include some changes to regulatory requirements for USTs. While Part 17 was amended in 2002 to provide AST owners and operators access to the Corrective Action Fund for releases from their tanks, the detailed regulations adopted by the Board this year require additional amendments to Part 17 to complete the regulation development process.

The proponent of the proposed amendments is the Department's Petroleum Storage Tank Bureau. The Bureau proposes to amend Part 17 in a number of respects, including the following: repealing the \$200 fee for post-1990 removals of ASTs, excluding monitored natural attenuation (MNA) plans from competitive bid requirements, eliminating the time limits for the interim soil or free product removal that can be accomplished without competitive bid, making changes to the provisions on competitive bid to reflect the new approach to qualifying firms in Part 16, clarifying the requirements for time-and-materials contracts, and repealing a section that the 2001 amendments to GWPA moved from the rulemaking authority of the Department to that of the Board.

All interested persons will be provided with a reasonable opportunity to submit data, views or arguments orally or in writing and examine witnesses testifying at the hearing. Any interested person may also provide a general written statement concerning the regulation amendment at or before the hearing by filing the statement with Hearing Clerk Carolyn Vigil, Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502 (ph: (505) 827-2002). Any person may provide a general oral statement or non-technical testimony concerning the proposed regulations at the hearing.

Any person who intends to provide a technical written statement or technical oral testimony concerning the proposed change to the regulations shall file a statement of intent to present technical testimony on or before September 5, 2003 with Hearing Clerk Carolyn Vigil. The statement of intent to present technical testimony shall:

1. Identify the person filing the statement, the witness, and the person for whom the witness will testify;
2. State whether the person filing the statement supports or opposes the regulations;
3. Identify each fact and/or expert witness, qualifications of each witness, including name, address, affiliations, and educational and work background;
4. Summarize, or include a copy of, the direct testimony of each technical witness, stating any opinions to be offered by the witness, an explanation of the basis for such opinions, and the anticipated duration of the testimony of the witness;
5. Identify all exhibits anticipated to be offered;
6. List or make available all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in his or her direct testimony; and
7. Include the text of any recommended modifications to the proposed regulatory changes.

Interested persons may review hard copies of the proposed amendments during regular business hours at the Petroleum Storage Tank Bureau located at 2044 Galisteo Street, Suite A, in Santa Fe, New Mexico; at the Albuquerque District Office located at 4131 Montgomery Boulevard NE; or at the Environment Department's web site at www.nmenv.state.nm.us. You may also contact Rosina Lopez at (505) 984-1787 to obtain hard copies of the proposed amendments.

If you are an individual with a disability and you require assistance or an auxiliary aide, i.e. sign language interpreter, to participate in any aspect of this hearing, please contact Cliff Hawley. Mr. Hawley's telephone number is (505) 827-2844, and his address is New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502. (TDD or TDY users: please access this number via the New Mexico Relay Network. Albuquerque TDD uses (505) 275-7333; outside of Albuquerque: 1-800-959-1779.)